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August 18, 2020

VIA ECF

Hon. Kevin N. Fox
United States Magistrate Judge
US Courthouse - SDNY
40 Foley Square
New York, NY 10007

**Re: Actava TV, Inc., et al. v. Joint Stock Company “Channel One Russia
Worldwide” et al. (18-cv-06626)**

Dear Judge Fox:

We are counsel to Plaintiffs in the above referenced action. We write in accordance with Rule 1(E) of Your Honor’s Individual Practices to request a further two and a half month extension for the completion of all discovery. We consulted with Defendants’ counsel, who have consented to this request. This Court has granted all six prior extension requests.

Pursuant to Your Honor’s order of May 26, 2020 (ECF 171) (the “Order”), **all** discovery in this matter is set to close on August 31, 2020. Since the parties’ last joint extension request in May 2020, they have continued to conduct discovery. Recent developments however, combined with the lasting effects of COVID-19 on the parties, have necessitated this extension request.

First, last year, this Court approved Plaintiffs’ motion for Letters Rogatory to non-party Matvil, which Plaintiffs then filed in Canadian Court. The Canadian Court rendered a decision on July 6, 2020, compelling Matvil to produce the documents sought. Matvil has now filed a notice of appeal, which will undoubtedly delay Matvil’s production. As that information is necessary for Plaintiffs’ expert damages report and Defendants’ fact-witness depositions, it would be wasteful to attempt to conclude discovery by August 31, only to repeat it when the appeal is disposed of.

Second, additional Matvil discovery disputes are not yet fully resolved. In May, this Court directed Defendants to seek Matvil’s consent to discovery of confidential documents that are already in Plaintiffs’ possession. In a July letter, Matvil permits Plaintiffs to produce certain documents, but only following Matvil’s review and consent. More time is needed for this reason.

Third, depositions have yet to take place as the parties have not yet certified in writing to each other that their documents productions are definitively complete. Defendants also recently sought depositions of former Actava employees including one person who lives outside of New York, another who will require a translator, and a third who has not yet been served. Defendants also served various non-parties with subpoenas, to which Plaintiffs objected and for which responses are forthcoming. Additional time is needed to complete these discovery processes.



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Fourth, Plaintiffs' objections to Your Honor's discovery ruling on the scope of the joint interest privilege remain pending before Judge Carter. If Judge Carter rules that the scope of the joint interest privilege is narrower than Your Honor ruled, that would significantly revise the scope of party depositions greatly burdening the parties with repeat party depositions in that event.

Fifth, since the Order, the parties faced further unanticipated delays arising from the COVID-19 pandemic. As our offices remain closed, we needed time to adopt remote production and deposition procedures. Accordingly, the parties are unable to complete all discovery by the August 31, 2020 deadline. Extending the discovery schedule is not prejudicial to any party, as no trial date has been or will likely be set. Rather, an extension would avoid costly repetitive discovery, warranting an adjournment of the close of discovery to November 13, 2020.

As an additional note, Defendants' counsel have indicated to us that while they have consented to this request, they also plan on bringing new discovery disputes to the Court's attention via separate correspondence.

Respectfully submitted,

/s/ Toby Butterfield

Toby Butterfield

cc: Hon. Andrew L. Carter Jr., United States District Judge (via ECF)
All Counsel (via ECF)